

VMWare and Carahsoft Agree to Pay \$75.5 Million to Settle Claims That They Concealed Commercial Pricing and Overcharged the Government - GSA Office of Inspector General

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United States Department of Justice
Office of Public Affairs
June 30, 2015

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VMware Inc. and Carahsoft Technology Corporation have agreed to pay \$75.5 million to resolve allegations that they violated the False Claims Act by misrepresenting their commercial pricing practices and overcharging the government on VMware software products and related services, the Department of Justice announced today. VMware is a Delaware corporation that specializes in computer virtualization software and has its principal place of business in Palo Alto, California. Carahsoft is a privately held Maryland corporation that distributes information technology products to federal, state and local governments and has its principal place of business in Reston, Virginia.

“Today’s settlement demonstrates our continuing vigilance to ensure that those doing business with the government give the taxpayers a fair deal,” said Principal Deputy Assistant Attorney General Benjamin C. Mizer, head of the Department of Justice’s Civil Division. “Government contractors who seek to profit improperly at the expense of taxpayers face serious consequences.”

“Transparency by contractors in the disclosure of their discounts and prices offered to commercial customers is critical in the award of GSA Multiple Award Schedule contracts and the prices charged to government agency purchasers,” said U.S. Attorney Dana J. Boente of the Eastern District of Virginia.

“We will continue to look into all allegations of false claims in GSA contracts,” said Acting Inspector General Robert C. Erickson of the U.S. General Services Administration (GSA). “I appreciate the hard work of our auditors, our agents and the attorneys on this complex case that has resulted in a large amount of money being returned to the United States.”

Under the Multiple Award Schedule (MAS) Program, prospective vendors agree to disclose commercial pricing policies and practices to the GSA in exchange for the opportunity to gain access to the broad federal marketplace and the ease of administration that comes from selling to any government purchaser under one central contract. GSA regulations require that, during contract negotiations with GSA, prospective vendors seeking an MAS contract make “current, accurate and complete” disclosures of the standard and non-standard discounts they offer to commercial customers. The GSA relies on the accuracy of these disclosures in order to negotiate fair pricing for government purchasers. Additionally, after the MAS contract is awarded, regulations require that MAS Program vendors disclose to the GSA changes in their commercial pricing practices, including improved discounts that are offered to commercial customers, after the MAS contract is in place.

The settlement resolves allegations that VMware and Carahsoft made false statements to the government in

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in connection with the sale of VMware products and services under Carahsoft's MAS contract. These false statements allegedly concealed the companies' commercial pricing practices and enabled the companies to overcharge the government for VMware's products and services from 2007 through 2013.

The civil settlement resolves a lawsuit filed under the whistleblower provision of the False Claims Act, which permits private parties to file suit on behalf of the United States for false claims and obtain a portion of the government's recovery. The civil lawsuit was filed in the Eastern District of Virginia by Dane Smith, who is a former vice president of the Americas at VMware Inc. Mr. Smith's share of the recovery has not been determined.

The settlement was the result of a coordinated effort by the Civil Division's Commercial Litigation Branch, the U.S. Attorney's Office of the Eastern District of Virginia and the GSA's Office of Inspector General, with assistance from the Defense Criminal Investigative Service Mid-Atlantic Field Office. The case is captioned United States ex rel. Smith v. VMware, Inc., et al., Case No. 10-CV-769 (E.D. Va.). The claims resolved by the settlement are allegations only; there has been no determination of liability.

Source: U.S. Department of Justice [press release](#)